

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

ANTHONY C. MCDADE,

8:14CV133

Petitioner,

v.

**MEMORANDUM
AND ORDER**

Respondent.

The court must conduct an initial review of the Petition for Writ of Habeas Corpus (Filing No. [1](#)) to determine whether the claims made by Petitioner are, when liberally construed, potentially cognizable in federal court. However, the court notes that Petitioner did not use the Form AO 241, Petition for Writ of Habeas Corpus by a Person in State Custody, but rather submitted a four-page Letter/Petition that does not clearly indicate the grounds alleged and does not name a Respondent.

The Petition must “substantially follow either the form appended to [the] rules, or a form prescribed by a local district-court rule.” See Rule 2 of the [Rules Governing Section 2254 Cases in the United States District Courts](#). Petitioner’s Petition does not substantially follow any form and does not clearly indicate the grounds alleged. Thus, the pending Petition for Habeas Corpus (filing no. [1](#)) is deemed insufficient and the court will not act upon it. However, on its own motion the court will grant Petitioner 30 days in which to file an amended petition.

Petitioner has also failed to include the \$5.00 filing fee. Petitioner has the choice of either tendering the \$5.00 fee to the Clerk of the court or submitting a request to proceed in forma pauperis and an affidavit of poverty in support thereof. If Petitioner chooses to do the latter, the enclosed pauper’s forms should be completed and returned to this court. The court cautions Petitioner that failure to adequately comply with this order may result in dismissal of his Petition without further notice.

IT IS THEREFORE ORDERED that:

1. Petitioner is directed to correct the above-listed technical defects within 30 days of the date of this Memorandum and Order. Failure to comply with this Memorandum and Order will result in dismissal of this matter without further notice.

2. The Clerk of the court is directed to send to Petitioner the Form AO241 (“Petition for Relief From a Conviction or Sentence By a Person in State Custody”) and the Form AO240 (“Application to Proceed Without Prepayment of Fees and Affidavit”).

3. The Clerk of the court is directed to set a pro se case management deadline in this matter with the following text: May 28, 2014: Check for MIFP or payment and amended petition.

DATED this 28th day of April, 2014.

BY THE COURT:

Richard G. Kopf
Senior United States District Judge

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